# United States
# COURT OF APPEALS
## for the Ninth Circuit

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| CALIFORNIA GAS PRODUCERS ASSOCIATION et al, Petitioners, | ) | |
| v. | ) | |
| FEDERAL POWER COMMISSION, et al, Respondents. | ) | No. 21310 |
| THE STATE OF TEXAS, Petitioner, | ) | |
| v. | ) | |
| FEDERAL POWER COMMISSION et al, Respondent. | ) | No. 21313 |
| TEXAS INDEPENDENT PRODUCERS & ROYALTY OWNERS ASSOCIATION et al, Petitioners, | ) | |
| v. | ) | |
| FEDERAL POWER COMMISSION et al, Respondent. | ) | No. 21314 |

On Petitions for Judicial Review
of Federal Power Commission Opinion
No. 495 and Related Orders

# BRIEF OF
# PUBLIC UTILITIES COMMISSIONER OF OREGON

FILED

JAN 30 1967

WM. B. LUCK, CLERK

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## CITATION INDEX

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## BRIEF OF
## PUBLIC UTILITIES COMMISSIONER OF OREGON

### I
### STATEMENT OF JURISDICTION

These cases are appeals requesting judicial review under Section 19b of The Natural Gas Act, of

Opinion No. 495 and related orders of the Federal Power Commission, Docket Nos. CP65-213, 214 and 215. This brief is submitted pursuant to Rules of the United States Court of Appeals for the Ninth Circuit and its orders of December 7, 1966 permitting intervention in each case by the Public Utility Commissioner of Oregon.

## II

## INTEREST OF THE STATE OF OREGON

Pacific Gas Transmission Company (PGT), an intervenor herein, has applied to the Federal Power Commission for authority to import 200 million cubic feet (200 MMcf) of Canadian natural gas per day from Kingsgate on the United States-Canadian border in British Columbia. The gas will be transported by PGT's existing 36 inch pipeline through northern Idaho, eastern Washington and eastern Oregon to a point near the Oregon-California border where it will be delivered to Pacific Gas & Electric Company for distribution in northern California. PGT is presently transporting approximately 415 million cubic feet of natural gas per day (415 MMcf/d) to California for Pacific Gas & Electric Company. None of the additional 200 MMcf/d is to be sold within the State of Oregon.

However, Oregon comprises part of the Northwest Division of the El Paso Natural Gas Company (El Paso), an interstate natural gas pipeline company. The area served by the Northwest Division

includes the states of Oregon, Washington and Idaho and El Paso is the exclusive supplier of natural gas to the distributors in these states. The PGT pipeline from Kingsgate, British Columbia, Canada, to the Oregon-California border presently transports approximately 150 million cubic feet of gas per day (150 MMcf/d) for El Paso. The gas is delivered to PGT at Kingsgate and is put into the El Paso system at various points in Oregon, Washington and Idaho, primarily at a point near Spokane, Washington. The charges to El Paso for gas transported for it by PGT are based upon cost of service. In the event the action of the Federal Power Commission approving this project is upheld by this Court, the ratio between usage of facilities for El Paso and for Pacific Gas Transmission Company will change. The result of that changed relationship will be a reduction in the transportation charges to El Paso which will ultimately inure to the benefit of consumers in Oregon as well as in Washington and Idaho. Both Washington and Idaho supported this project before the Federal Power Commission.

## III

## ARGUMENT

### 1. Benefits to Pacific Northwest Consumers are Important Factors in Determining Whether this Project is in the Public Interest

The Federal Power Commission found that the increased use of the already existing PGT pipeline

resulting from the importation of the new 200 MMcf/d by PGT would reduce the unit cost of gas supplied not only to California, but also that gas destined for consumers in Washington, Oregon and Idaho. (R:5259)

For the years 1966 through 1970, the savings to be achieved upon approval of the PGT applications appear to be as follows: (R:1341)

| | |
|---|---|
| 1966 | .09¢/Mcf |
| 1967 | 1.11¢/Mcf |
| 1968 | 1.34¢/Mcf |
| 1969 | 1.25¢/Mcf |
| 1970 | 1.10¢/Mcf |

These savings in annual dollar amounts will be: (R:1342)

| | |
|---|---|
| 1966 | $46,000 |
| 1967 | 564,000 |
| 1968 | 681,000 |
| 1969 | 639,000 |
| 1970 | 564,000 |
| Five year total | $2,494,000 |

From the overall public interest standpoint, the merits of this project must be judged by more than the price of gas from Canada as against the price of gas from some other source to the Pacific Gas & Electric Company load center. A direct, substantial and readily computed benefit to consumers in the Pacific Northwest results from this project. While consumers in California would have little concern for

the interests of the Northwest so far as they relate to this project, the Federal Power Commission did recognize that this benefit to Oregon, Washington and Idaho would be immediate, substantial and in the public interest.

If one were to translate these savings to the Northwest into California consumer dollars for purposes of comparing relative costs of Canadian and Texas gas in the California market giving effect to the benefit of the project to the Northwest, it might be done as follows:

Annual gas transported for El Paso is 50,896 MMcf, which is 143,334 Mcf/d. Applying a four year average cost reduction per Mcf of 1.20¢ (1966 is omitted in the average) to the daily El Paso deliveries and dividing by the additional California deliveries, authority for which is sought herein, produces a California savings equivalent of .82¢ /Mcf. In other words, if due consideration is to be given savings achieved in the Northwest in relation to the cost differential between Canadian and Texas gas delivered in California, the savings in the Northwest produced by a grant of the applications here under consideration should be deemed to reduce the cost of the Canadian gas delivered to California by an additional .82¢ /Mcf.

### 2. The Federal Power Commission Committed No Error in Refusing to Adopt a Policy Which Would Restrict Canadian Imports in the Interest of "National Security."

The California market, the dependability of Canada and the relative costs of gas from Canada and gas which Texas offers are discussed at length by other parties. However, one additional point bears mention in this brief.

The Independent Petroleum Association of America (IPAA) contends in its brief as Amicus Curiae that the Federal Power Commission erred in not adopting IPAA's policy which would restrict natural gas imports into the United States by allowing them to increase at a rate no greater than the growth rate of domestic production of natural gas. (IPAA Brief, p. 10) This proposition, as presented to the Federal Power Commission through its Brief on Exceptions was justified on the basis of national security. (R:5013) The IPAA suggests that the Mandatory Oil Import Program instituted by Presidential Proclamation No. 3279 on March 10, 1959, 24 Fed. Reg. 1781-1783 (1959), created a new consideration, national security, which the Federal Power Commission cannot ignore(R: 4997-4998). It then urges that the Federal Power Commission adopt the IPAA policy of permitting imports to increase at a rate no greater than the growth rate of domestic natural gas production (R: 5013). The Federal Power Commission rejected the IPAA proposal to adopt such a blanket pol-

icy, asserted that the Mandatory Oil Import Program did not apply to natural gas importations and further stated that under the circumstances of the instant case the factors which gave rise to the Mandatory Oil Import Program did not prevent the authorizations sought by Pacific Gas Transmission Company herein (R: 5260). In its opinion it referred to its prior consideration and rejection of the same proposal by IPAA. *Montana Power Company*, Docket Nos. G-17370 and G-17371, Opinion No. 406, issued February 8, 1966. (Appendix pp. 1-14)

The Mandatory Oil Import Program, as amended, was the culmination of Congressional direction that the Office of Civil and Defense Mobilization (OCDM), upon request or application of an interested party, or upon its own motion, conduct investigations to determine the effects upon national security of imports of the particular article which was the subject of the request, application or motion. 72 Stat. 678 (1958). If the OCDM believed the article was being imported in such quantities that the national security was threatened, by the terms of the statute it reported the results of its investigation to the President who was then authorized by Congress to take such action as he deemed necessary to adjust the imports of such article and its derivatives so that the imports would not so threaten to impair the national security. The flexibility achieved by Congress in placing this power in the President to impose import restrictions is apparent. 105 Cong. Rec. 3769-3772 (1959). In deter-

mining whether national security is threatened by importation of a particular article, the President shall consider the effect of the imports upon domestic production. 72 Stat. 679 (1958).

This forum, adopted by Congress to investigate, analyze and quickly react to importations of various articles in quantities which might threaten national security, is still open. The requests or applications of interested parties for investigations are now to be directed to the Office of Emergency Planning. 19 U.S.C. § 1862 (See Appendix). Neither Congress nor the President to whom this function has been entrusted by Congress has determined that in the interest of national security, imports of natural gas from Canada should be restricted.

The Federal Power Commission is obligated by Section 3 of the Natural Gas Act, 15 U.S.C. § 717b, (Appendix p. 14) to issue an order authorizing exportation or importation of natural gas unless it finds that the proposed exportation or importation will not be consistent with the public interest. It has made the determination that the importation under the present project is in the public interest. It may be said that if the Federal Power Commission undertook to adopt a policy of restricting natural gas imports on the grounds that a threat to national security existed where no such threat had been recognized and proclaimed by the President, it would be both presumptuous and a usurpation of an authority given expressly to the President by Congress. Further, it is

submitted that on the basis of comparative qualifications this particular issue of national security should be determined by the President and Congress, rather than by the Federal Power Commission.[1]

## IV

## CONCLUSION

The Federal Power Commission has found that a lower unit cost of natural gas to the consumers in the Pacific Northwest States of Oregon, Washington and Idaho is part of the overall public interest.

The Federal Power Commission has also determined that no blanket restrictions should be placed upon importation of natural gas.

The Public Utility Commissioner of Oregon respectfully urges this Honorable Court to declare that the findings of the Federal Power Commissioner herein are supported by substantial evidence and that the conclusions of the Federal Power Commission,

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[1] It is interesting to note that the original restrictions of the Mandatory Oil Import Program with respect to imports from Canada, and particularly imports into District V, were effectively removed by a finding by the President that it was not necessary, in order to prevent imports of crude oil, unfinished oils and finished products from threatening national security, to restrict importation of such commodities which are transported overland, by pipeline or otherwise, from the country in which they are produced to the United States. Presidential Proclamation No. 3290, 24 Fed. Reg. 3527-3529 (1959). The further amendment to Proclamation No. 3279, by Proclamation No. 3509 of November 30, 1962 did not substantially affect the lifting of restrictions on Canadian oil imports. 27 Fed. Reg. 11985 (1962).

including those set forth above, have a rational basis in law.

Respectfully submitted,

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## APPENDIX INDEX

## APPENDIX

UNITED STATES OF AMERICA

FEDERAL POWER COMMISSION

Before Commissioners: David S. Black, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross, and Carl E. Bagge.

The Montana Power Company )
Docket Nos. G-17370, G-17371

### Opinion No. 486

### Opinion and Order Adopting Initial Decision of Presiding Examiner

(Issued February 8, 1966)

BAGGE, Commissioner:

This proceeding involves two applications filed on January 25, 1965, by The Montana Power Company (Montana Power) requesting first, in Docket No. G-17371, an order under Section 3 of the Natural Gas Act for authorization to import natural gas at an average daily rate of 20,000 Mcf (in addition to its presently authorized imports at an average daily rate of 30,000 Mcf) from Alberta, Canada, into the State of Montana; and second, in Docket No. G-17370, an amendment to its Presidential Permit under Executive Order No. 10485, making possible the importation of the increased quantities of gas.

The Independent Petroleum Association of America (IPAA or Intervener) participated in this proceeding pursuant to Commission order issued May 14, 1965. IPAA opposed the applications, alleging that the requested imports would have the effect of foreclosing substantial markets to domestic gas or oil supplies, and therefore would be in conflict with the purpose of the Mandatory Oil Import Program.[1]

By stipulation of the parties, the case was submitted on the basis of prepared written testimony and briefs without cross-examination of the witnesses for Montana Power. On October 18, 1965, Presiding Examiner Ewing G. Simpson issued an initial decision in which he ordered that authorization be granted to Montana Power to import from Canada the proposed additional volumes of natural gas. He found that Montana Power had established a need for this importation, and that such importation would not be inconsistent with the public interest. The examiner also found that the existing Presidental Permit sufficiently provided for the additional proposed imports and that no amendment or additional permit was required.

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[1] The Mandatory Oil Import Program was established by Presidential Proclamation No. 3279, dated March 10, 1959, after the Director of the Office of Civil and Defense Mobilization advised the President that imports of crude oil and its products and derivatives were threatening to impair the national security. The policy of the Mandatory Oil Import Program was to limit petroleum imports into the United States from foreign countries. In issuing the Proclamation, President Eisenhower stated: "The new program is designed to insure a stable, healthy industry in the United States capable of exploring for and developing new hemisphere reserves to replace those being depleted."

The proceeding is before the Commission on the examiner's decision, exceptions filed by IPAA, and answers to these exceptions. The basic issue presented is whether Montana Power's application for an order under Section 3 of the Natural Gas Act for the importaition of gas from Canada should be denied.

IPAA has filed a motion for oral argument and has asked that this argument be heard together with oral argument in the *Pacific Gas Transmission Company* proceedings, Docket Nos. CP65-213, *et al.*, asserting that these two proceedings involve similar issues. The issues in this proceeding have been adequately covered in the briefs and exceptions. Oral argument would contribute little which has not already been presented. The motion for oral argument will accordingly be denied.

## Background

Montana Power, a corporation organized under State of Montana law, is engaged in the production, transmission and distribution of natural gas wholly within that state. Montana Power furnishes gas to the Cities of Butte, Anaconda, and Bozeman, as well as to areas in southwestern and south-central Montana. The system directly serves 74,300 retail users and furnishes gas to three other utilities which serve an additional 20,600 users.

Montana Power entered the gas business in 1931, at which time it secured its entire gas supply from

fields in Montana. Late in the 1940's the applicant's searches for additional gas supplies in Montana and adjacent areas proved fruitless, and Montana Power then turned to Alberta, Canada, as the closest and most economic source of supply. With Commission authorization,[2] Montana Power began to import Canadian gas in 1952. The Commission granted the applicant additional authorizations for such imports in 1955[3] and in 1960[4] upon the applicant's showing of the decline of its domestic reserves and its inability to discover new domestic supplies within feasible transmission distance.

In this proceeding Montana Power seeks to amend the Commission's 1960 order so as to increase the amount of gas to be imported by an average of 10,000 Mcf per day commencing November 1, 1966, and by an additional average of 10,000 Mcf commencing on or about November 1, 1967, but not to exceed, along with related imports presently authorized, 60,000 Mcf in any one day.

The gas will be purchased in Canada from Alberta producers by Alberta and Southern Gas Com-

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[2] *The Montana Power Company,* Docket Nos. G-1712, *et al.,* 1952, 11 FPC 1.

[3] *The Montana Power Company,* Docket Nos. G-2805, *et al.,* 1955, 14 PFC 227.

[4] *Pacific Gas Transmission Co. et al.,* Docket Nos. G-17350, *et al.,* 1960, 24 FPC 134. In this order the Commission authorized Montana Power to import an average quantity of 30,000 Mcf of gas per day, to a maximum of 36,000 Mcf per day and 10,950,00 Mcf per year, from western Alberta, and granted Montana Power a permit to construct, operate, maintain and connect facilities for this importation near Babb, Montana.

pany Ltd. (Alberta and Southern). It will be delivered by the latter to The Alberta Gas Trunkline Company Ltd. (Trunk Line) for transportation to a point four miles north of the Montana-Alberta border. There the gas will be sold and delivered to Canadian-Montana Pipe Line Company (Canadian-Montana), a subsidiary of Montana Power engaged in the transportation of gas in Canada. The facilities now owned and used by Canadian-Montana and Montana Power in the importation of 30,000 Mcf per day will be used for the proposed imports, without additions. Montana Power has estimated that its cost for the proposed imports for the year 1968 will be 22.09 cents per Mcf (14.73 psia) delivered at the border.

In support of its application, Montana Power submitted estimates showing that its system total loads will increase from an actual 45,041,000 Mcf in 1964 to an estimated 55,518,000 Mcf in 1970. Montana Power calculated that its available supplies in the United States together with its contracted and proposed purchases from Alberta, including the gas which is the subject of this proceeding, will suffice to meet its needs only through 1968 and that by 1970 its requirements will exceed its supplies by an estimated 9,312,000 Mcf. The applicant further stated that it has not abandoned its exploration program for discovering domestic sources of natural gas, but that this program has not met with success, and that it must obtain gas from Canada in order to avoid the curtailment of deliveries and the denial of service to its prospective customers.

Montana Power's allegations as to its needed requirements of gas and its available resources were not disputed by the other parties. The ability of Alberta and Southern to obtain the volumes of gas contracted to Montana Power was stipulated. Official Canadian approval permitting the export of the gas has been obtained.[5]

### IPAA's Objections

IPAA, a national trade organization representing more than 6,000 oil and natural gas producers, did not attack or attempt to refute Montana Power's presentation as to its need for the requested imports of gas. Intervener advocated, however, that the Commission should establish a policy whereby the approval of imports of natural gas would be correlated with the oil import restrictions of the Mandatory Oil Import Program. Intervener stated that it was not trying to keep Montana Power from getting something which it needed and could not get elsewhere, but was simply attempting to inform the Commission that growing imports of crude oil and natural gas liquids were having a "dampening" effect on the domestic oil industry. The essence of Intervener's case was summarized in its Initial Brief at page 19:

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[5] Alberta and Southern has secured a permit (No. AS64-3) from the Alberta Oil and Gas Conservation Board, approved by the Lieutenant Governor in Council (O.C. 1941/64), authorizing the removal of the gas involved during the term ending October 31, 1989. Montana Power has also filed a certified copy of the license issued to Canadian-Montana by the National Energy Board of Canada (No. GL-17), approved by order in Council (P.C. 1486), authorizing the exportation.

> "Standing alone the additional volumes of foreign natural gas sought by applicant may not be sufficient to thwart or endanger this Nation's policy to limit imports in the interest of our national security. However, when added to that already being imported, other import applications now pending and still others certain to come, it can easily be seen that such increasing imports will pose a serious threat to the domestic petroleum producing industry and thus to our Nation's security."

Montana Power attacked Intervener's objections, stating that these were founded upon the fallacies of assuming that the problems of the oil and natural gas industries were identical and that the imported gas would supplant domestic production. Montana Power asserted that the policies of the Mandatory Oil Import Program are not applicable to the natural gas industry and pointed out that no domestic gas supplies would be supplanted by the imports, since its own discovery efforts in the areas near Montana had proved fruitless. Staff corroborated this statement as to the absence of an economic domestic source of gas and added that it might not be in the national security interest to foreclose needed imports of gas, forcing the consumption of domestic reserves at the fastest possible rate at the highest possible price.

### The Examiner's Initial Decision

The examiner proposed in his initial decision that authorization be granted to Montana Power to enable it to import its requested volumes of gas. The ex-

aminer found that these imports would not be inconsistent with the public interest, and he found no support of record fact for Intervener's contention that this authorzation would be contrary to the national policy.

With respect to Intervener's argument that imports of gas serve to supplant domestic petroleum products, the examiner concluded that this argument was essentially the displacement-of-fuels objection raised by coal, oil and related interests in earlier proceedings before the Commission. He pointed out that it had been generally held that the interests of competing fuels would be considered along with those of all others,[6] but that the authorization for gas would be granted where it appeared that preponderant advantages would attend its use, or that an overbalancing public benefit would result.[7] The examiner found that, measured by these standards, Montana Power's proposal merited approval, particularly in view of the applicant's inability to solve in any other way its problem of dwindling reserves.

### IPAA's Exceptions To The Examiner's Initial Decision

IPAA's exceptions to the examiner's decision recite seven alleged errors, all relating to the examiner's

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[6] *American Louisiana Pipe Line Co., et al.* (G-2306, *et al.*, 1958), 20 FPC 575, 608, 609.

[7] *Southern Natural Gas Co.* (G-14740, 1962), 28 FPC 283; *Coastal Transmission Corp., et al.* (G-18338, *et al.*, 1961), 26 FPC 318, 325.

refusal to find that the denial of Montana Power's application was required by operation of the Mandatory Oil Import Program. Intervener contended that the examiner erred (1) in not going beyond the Natural Gas Act and in not taking cognizance of the Mandatory Oil Import Program; (2) in not taking judicial notice of such Import Program; (3) in failing to consider national security problems arising from U.S. consumer dependency on foreign supplies; (4) in finding that the proposed imports would not adversely affect the incentive to explore for and develop domestic reserves; (5) in finding that the proposed import would not endanger the national policy of limiting oil imports; (6) in not considering the national security implications of this proceeding; and (7) in not considering the long-term interest of the applicant's customers.

We find that Intervener's exceptions are not persuasive and, indeed, are not factually accurate. As to exceptions (1) and (2), the examiner's decision shows that he took full cognizance and judicial notice of the Mandatory Import Program in arriving at his findings.[8] Furthermore, contrary to exceptions (3), (5), (6), and (7), he gave adequate consideration to the questions of national security and long-term consumer interest. And finally, with respect to

[8] The examiner pointed out (pp. 9-11 of mimeographed decision) that during the period when the oil import program was being formulated, natural gas received infrequent mention, and only in general terms, with no indication that natural gas had any association, potential or otherwise, with the matters under consideration.

exception 4, the examiner had ample basis for finding that the applicant's proposed imports would not adversely affect the incentive to explore for and develop domestic reserves.[9]

Section 3 of the Natural Gas Act provides that the Commission shall, upon application, issue an order for importing natural gas from a foreign country, unless, after opportunity for hearing, it finds that the proposed importation will not be consistent with the public interest. In this proceeding Montana Power has made a convincing *prima facie* showing of its need for the requested imports, of its inability to discover new accessible domestic gas fields, and of the practicability of piping the Alberta gas into Montana. Intervener has not refuted Montana Power's showing of need, nor has it been able to demonstrate that domestic sources of gas are readily available to supplement Montana Power's dwindling reserves. The urgency of the applicant's position assumes particular significance in light of the fact that part of the gas to be imported will be used to replace gas which was formerly purchased from Montana-Dakota Utilities, but which is no longer available,[10] and also in

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[9] The examiner noted (pp. 12-13) that natural gas imported from Canada is currently averaging some 2.48 percent of domestic market production, and is transmitted to twelve states by pipe lines, after various approvals by the Commission based upon a demonstrated public need. He observed (p. 11) that consideration of the matters mentioned in the FPC Annual Reports to Congress did not give any indication that imports of gas confronted domestic oil and gas exploration and development programs with an emergency.

[10] The Commission authorized Montana-Dakota to abandon its sales to Montana Power effective January 1, 1965, by Order issued November 4, 1964, in Docket No. CP65-36.

light of the fact that Montana Power's industrial customers include mining and metal processing interests of importance to the national security.

Intervener's objections do not warrant the denial of Montana Power's application. Indeed, IPAA conceded that the volume of imports involved in this proceeding is *de minimis* and that Montana Power's proposed imports "standing alone" afford little basis for Intervener's expressions of alarm as to the national security or the health of the domestic petroleum industry. To the extent that Intervener's case is based upon its assumption that the denial of Montana Power's application will compel the search for and discovery of new domestic gas and oil wells, Intervener has not established its case.

Intervener asserted that the Commission is acting without administrative standards or appropriate policy guidelines in ruling upon applications for the importation of Canadian natural gas. We find that this argument is without merit. The Commission's standards and guidelines in proceedings of this type have been enunciated repeatedly in *Northwest Natural Gas Company, et al.*, 13 FPC 221, 235 (1954); in *American Louisiana Pipe Line Company, et al.*, G-2306, *et al.*, 20 FPC 575, 591 (1958); and in *Pacific Gas Transmission Company, et al.*, G-17350, *et al.*, 24 FPC 134, 135 (1960). The Commission's concern for the protection of the consuming public, the adequacy of the available supply of gas, and the effect of the importation of gas upon national security and national

welfare has been plainly expressed in the above decisions. We have applied these standards and guidelines to the facts of this case, and we affirmatively find that they are here satisfied.

We accordingly approve and adopt the examiner's findings and conclusions with respect to Montana Power's application, to the extent not inconsistent with the foregoing discussion.

*The Commission further finds*:

(1) The Montana Power Company is a "person" within the meaning of Section 2(1) and Section 3 of the Natural Gas Act.

(2) The Montana Power Company owns and operates a natural gas production gathering, transmission and distribution system in the State of Montana for the sale of natural gas for ultimate public consumption within that State; its rates for natural gas service are regulated by the Public Service Commission of Montana; and the gas which it proposes to receive from Canadian-Montana Pipe Line Company at the international border will be used solely in Montana.

(3) The importation of natural gas herein proposed by The Montana Power Company should be authorized subject to the conditions stated in ordering paragraphs below.

(4) The Presidential Permit issued to The Montana Power Company on September 19, 1960, in Docket No. G-17370, which is presently used by The Mon-

tana Power Company to import 30,000 Mcf per day of natural gas as authorized in Docket No. G-17371, from Canada into the United States, sufficiently provides for the additional imports proposed, and no amendment or additional Permit is required.

(5) The exceptions to the examiner's decision should be denied.

*The Commission orders*:

(A) The Montana Power Company is authorized, subject to the conditions specified herein, to import from Canada into the United States additional gas to an average of 10,000 Mcf per day commencing on or about November 1, 1966, and to an average of 20,000 Mcf per day commencing on or about November 1, 1967, at a point of interconnection on the International Boundary, all as more fully described in the application filed herein in Docket No. G-17371 and the evidence received in these proceedings.

(B) The authorization granted is subject to the applicable terms and conditions of the Commission's Order issued to The Montana Power Company in Docket No. G-17371, August 5, 1960 (24 FPC 134).

(C) The examiner's decision, to the extent not inconsistent herewith, is adopted as part of this Opinion and Order.

(D) The exceptions to the examiner's decision are denied.

(E) The motion for opportunity to present oral

argument before the Commission is denied.

By the Commission.

(SEAL)

Gordon M. Grant,
Acting Secretary

**NATURAL GAS ACT, SEC. 3, 15 USCA §717b**

**Exportation or importation of natural gas**

After six months from June 21, 1938 no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest. The Commission may by its order grant such application, in whole or in part, with such modification and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing, and for good cause shown, make such supplemental order in the premises it may find necessary or appropriate. June 21, 1938, c. 556, § 3, 52 Stat. 822.

## TRADE AGREEMENTS EXTENSION ACT OF 1962, 19 USCA §1862

**Safeguarding national security—Prohibition on decrease or elimination of duties or other import restrictions if such reduction or elimination would threaten to impair national security.**

(a) No action shall be taken pursuant to section 1821(a) of this title or pursuant to section 1351 of this title to decrease or eliminate the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Director of the Office of Emergency Planning (hereinafter in this section referred to as the "Director") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from other appropriate departments and agencies, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances

as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

(c) For the purposes of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displace-

ment of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b) of this section. The Director shall publish procedural regulations to give effect to the authority conferred on him by subsection (b) of this section. Pub. L. 87-794, Title II, § 232, Oct. 11, 1962, 76 Stat. 877.

CERTIFICATE

I certify that, in connection with the preparation of this brief, I have examined Rules 18, 19 and 39 of the United States Court of Appeals for the Ninth Circuit, and that, in my opinion, the foregoing brief is in full compliance with those rules.

/s/ Richard W. Sabin
RICHARD W. SABIN
Attorney

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing upon:

Federal Power Commission
Howard E. Wahrenbrock, Solicitor
441 G Street N.W.
Washington, D. C. 20426

and all other parties to this proceeding.

/s/ Richard W. Sabin
RICHARD W. SABIN

January 27, 1967